IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 141 OF 2004

SHRI SURESH XENCORA KHORJUVENKAR, PANAJI GOA. ....Appellants

Versus

SHRI SAYED NAZIR,ALTO BETIM,BARDEZ-GOA. ....Respondents

Mr. S. D. Lotlikar, Senior Advocate with Ms. K. Sambari, Advocate for the appellant.

Coram:- R. M. LODHA, J.

Date:- 24th August, 2005

P.C.

Heard Mr. S. D. Lotlikar, leaned Senior Counsel for the appellant. I perused the Judgment of the IInd Adhoc Addl. District Judge, Panaji as well as the Judgment of the Civil Judge, Sr. Division, Panaji.

2. Though the Judgment of the appeal Court is that of reverssal, upon perusal thereof I find that the consideration of the matter by the appeal Court is concluded on facts and cannot be said to suffer from any error of law. The plaintiff's case was based on pro-note. According to him, the defendant had taken an advance of Rs.35,000/- and executed the pro-note. On the other hand, the case of the defendant was that though advance of Rs.35,000/- was taken by him, that was for fishing business and he had returned a sum of Rs.27,000/- by supply of prawns and the balance amount was returned by cheque. In the backdrop of the rival case, the appeal Court examined the evidence and found that the defendant has been able to establish that the amount under the pro-note has been fully returned by the defendant.

3. No substantial question of law arises in this appeal. Dismissed in limine.

R. M. LODHA, J.